

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA ex rel. DAVID )  
KESTER, et al., )  
Plaintiffs, ) ) No. 1-11-cv-08196-CM  
v. )  
NOVARTIS PHARMACEUTICAL )  
CORPORATION, et al., )  
Defendants. )  
\_\_\_\_\_  
)

**PLAINTIFF DAVID KESTER'S MOTION FOR DISMISSAL OF CERTAIN CLAIMS  
OF THE UNITED STATES AND THE STATE PLAINTIFFS**

Pursuant to Fed. R. Civ. Pr. 41(a)(2), Relator David Kester hereby respectfully moves the Court to dismiss without prejudice all claims in this action asserted on behalf of the United States and the state plaintiffs against Defendants Amerisource Bergen Corporation (“Amerisource Bergen”), Express Scripts, Medco Health Solutions, Inc. (“Medco”), and Walgreen Company (“Walgreen”) on the ground that good cause appears therefor. Counsel for the United States and the state plaintiffs, with the exception of the State of Indiana, have informed counsel for the Relator that they intend to provide the Court with the written consent to this dismissal, if any, that is required by their respective false claims laws.

This motion is based on the points and authorities in the accompanying memorandum. A proposed order is attached as Exhibit 1 for the Court’s consideration.

Respectfully submitted,

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